

SENATE BILL NO. 51

INTRODUCED BY K. HANSEN

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF AGRICULTURE TO REVOKE A LICENSE FOR FAILURE TO ASSESS, REPORT, OR PAY ASSESSMENTS; REQUIRING COMMODITY DEALERS TO RETAIN AND MAINTAIN RECORDS FOR 5 YEARS; AMENDING SECTIONS 80-4-421 AND 80-4-606, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 80-4-421, MCA, is amended to read:

"80-4-421. License suspension and revocation -- renewal. (1) The department may revoke, suspend, or modify a commodity warehouse operator's or commodity dealer's license when it has reasonable cause to believe that the licensee has committed any of the following acts, each of which is a violation of parts 4 through 7 of this chapter:

(a) failure to maintain all initial licensing requirements, including insurance, bonding, and net asset requirements. In determining compliance with net asset requirements, the department may consider the licensee's status under any prior or current bankruptcy proceedings, as well as any outstanding civil settlements or judgments.

(b) aiding or abetting another person in the violation of the licensure or any other provisions of parts 4 through 7 of this chapter;

(c) conviction of any criminal offense defined under Title 45, after considering Title 37, chapter 1, part 2;

(d) failure or refusal to allow inspection or maintain and provide records, reports, and other information required by the department;

(e) failure or refusal to post storage and other charges as filed with the department;

(f) failure or refusal to accept agricultural commodities for storage as required under 80-4-523;

(g) failure to comply with the warehouse receipt and scale weight ticket requirements of 80-4-525 and

1 80-4-527;

2 (h) failure of a warehouse operator to maintain and deliver upon request sufficient agricultural
3 commodities to cover outstanding warehouse receipts as required under 80-4-531;

4 (i) discrimination in charges by a warehouse operator as provided in 80-4-524;

5 (j) failure to provide payment for any agricultural commodity;

6 (k) failure to satisfy a judgment entered as a result of a violation of this chapter; ~~or~~

7 (l) violation of or failure or refusal to comply with any other provision of parts 4 through 7 of this chapter
8 or any rule adopted by the department pursuant to parts 4 through 7; or

9 (m) failure to assess, report, or pay an assessment authorized and required pursuant to Title 80, chapter
10 4 or 11.

11 (2) The department may refuse to issue or renew a license if the applicant or licensee:

12 (a) has a license as a warehouse operator or commodity dealer that was previously or is currently
13 suspended or revoked. In determining the sufficiency of cause, the department shall consider the nature and
14 length of the action and any subsequent licensure or other evidence of rehabilitation.

15 (b) does not satisfy the bonding, insurance, or net asset requirements as specified in subsection (1)(a)
16 or any other provisions required as a condition to licensing;

17 (c) has been convicted of a criminal offense and the denial or refusal is made after considering Title
18 37, chapter 1, part 2.

19 (3) The issuance of a license based on information provided by the applicant that the department
20 subsequently determines incorrect is void, and any conduct under that license is a violation.

21 (4) All proceedings brought under subsections (1) and (2) must be conducted under the provisions of
22 the Montana Administrative Procedure Act.

23 (5) The department is authorized to issue summary revocations, suspensions, or denials without hearing
24 pursuant to the procedures established in 2-4-631."

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26 **Section 2.** Section 80-4-606, MCA, is amended to read:

27 **"80-4-606. Inspection of premises, books, and records.** (1) The department may at any reasonable
28 time inspect the premises and records of any commodity dealer used in the conduct of ~~his~~ the commodity
29 dealer's business. A commodity dealer shall, upon request of the director, furnish to the department at any
30 reasonable time and place all books, accounts, records, and papers relating to agricultural commodity

1 transactions within the state, including those pertaining to the collecting, reporting, and paying of authorized
2 assessments pursuant to Title 80, chapter 4 or 11.

3 (2) A commodity dealer shall retain and maintain the records provided for in subsection (1) for a period
4 of 5 years from the date of the transaction.

5 (3) If there exists good cause to believe that a person is doing business as a commodity dealer without
6 a license, the department may inspect the books, papers, and records of the person that pertain to agricultural
7 commodity purchases."

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9 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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11 NEW SECTION. Section 4. Applicability. [Section 2(2)] applies to transactions with a date after [the
12 effective date of this act].

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